

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BRUCE DANIEL MULLIGAN,	)	
	)	
Plaintiff,	)	CASE NO. C09-842-RSL-MAT
v.	)	
	)	
DR. DAVID KENNEY, <i>et al.</i> ,	)	ORDER DENYING PLAINTIFF'S
	)	MOTION TO COMPEL
Defendants.	)	
_____	)	

This is a civil rights action filed under 42 U.S.C. § 1983. This matter comes before the Court on plaintiff's motion to compel discovery. The Court, having reviewed plaintiff's motion, all briefing submitted by the parties, and the remaining record, does hereby ORDER as follows:

(1) Plaintiff's motion to compel discovery (Dkt. No. 39) is DENIED. In January 2010, plaintiff filed a motion to compel discovery in which he asserted that defendants had failed to produce a list of all single cell placements at the Twin Rivers Unit of the Monroe Correctional Complex which defendants' counsel had agreed to produce during a discovery conference held in September 2009. Plaintiff also asserted in his motion to compel that defendants had failed to produce a series of e-mail attachments requested in a set of discovery

01 requests which were sent to defendants' counsel in October 2009.

02 Defendants, in their response to plaintiff's motion to compel, asserted that the requested  
03 documents had been provided and that plaintiff's motion was therefore moot. However,  
04 defendants referenced therein only plaintiff's request for information regarding single cell  
05 placements. Plaintiff, in his reply brief in support of his motion to compel, asserted that his  
06 motion was not moot because the information he received in response to his request for a list  
07 single cell placements was incomplete and because he had not received the requested e-mail  
08 attachments.

09 Because defendants did not have an opportunity to respond to plaintiff's contention that  
10 their response to his request for information regarding single cell placements was incomplete,  
11 and because defendants failed to respond in their opposition brief to plaintiff's contention that  
12 they had yet to produce requested e-mail attachments, this Court determined that additional  
13 briefing was necessary. Defendants were therefore directed to file a supplemental response to  
14 plaintiff's motion to compel.

15 Defendants filed their supplemental response to plaintiff's motion in March 2010.  
16 Defendants assert therein, with respect to the list of single cell placements, that they have  
17 produced all of the information agreed upon by the parties at the September 2009, discovery  
18 conference. Defendants explain that while plaintiff, in his motion to compel, asked that  
19 defendants be compelled to produce a list of single cell assignments covering all of 2008 and  
20 2009, the agreement reached at the September 2009 discovery conference was that defendants  
21 would provide a list of *current* inmates assigned to single cells, not a list encompassing a two  
22 year period. Defendants also note in their supplemental response that because of the nature of

01 inmate housing, compiling the list suggested by plaintiff “would be arduous, if not impossible.”  
02 (Dkt. No. 51 at 2.)

03        Though plaintiff was provided an opportunity to file a supplemental reply brief in  
04 support of his motion to compel, he did not do so. In the absence of any challenge to  
05 defendants’ assertion that they have, in fact, provided all of the discovery agreed upon at the  
06 September 2009 conference, this Court can only conclude that the agreed upon materials have  
07 been produced and that plaintiff’s motion to compel is therefore moot in this regard.

08        With respect to the issue of e-mail attachments, defendants assert in their supplemental  
09 response that the requested e-mail attachments have either been provided or do not exist.  
10 Again, plaintiff does not challenge defendants’ assertion. Accordingly, plaintiff’s motion to  
11 compel is moot in this regard as well.

12        (2)     The Clerk is directed to send copies of this Order to plaintiff, to counsel for  
13 defendants, and to the Honorable Robert S. Lasnik.

14        DATED this 18th day of June, 2010.

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17 Mary Alice Theiler  
18 United States Magistrate Judge  
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